

EXHIBIT E

1 IN THE UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF VIRGINIA
3 NORFOLK DIVISION

3 No. 2:18cv530

4 CSX TRANSPORTATION, INC.,
5 individually and on behalf
6 of NORFOLK & PORTSMOUTH BELT
7 LINE RAILROAD COMPANY,
8 Plaintiff,

9 v.

10 NORFOLK SOUTHERN RAILWAY COMPANY,
11 et al.,

12 Defendants.

13 _____ /
14 Remote Proceedings
15 January 6, 2021
16 9:42 a.m. - 6:15 p.m.

17 VIDEO DEPOSITION OF CARL WARREN

18 (via Teleconference)

19 Taken before SUZANNE VITALE, R.P.R., F.P.R.

20 and Notary Public for the State of Florida at Large,
21 pursuant to Notice of Taking Deposition filed in the
22 above cause.

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25 Job No. CS4385262

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25 Q. What is your experience in dealing with a

1 shipping alliance?

2 A. My experience really is based more on what
3 I've learned from colleagues at the company and
4 colleagues in the industry than any direct work of
5 my own. I was involved in roles that were more
6 heavily focused on cargo traffic at the time that a
7 lot of the alliance work started to happen.

8 Q. Which colleagues do you have in mind that
9 you learned from?

10 A. I would say Jay Strongosky.

11 Q. So do I understand you correctly that the
12 contents of paragraph 7 are based on what you've
13 learned from colleagues and from others in the
14 industry?

15 A. Yeah, I would say -- I would say so
16 because I haven't had to deal with any of the
17 alliances.

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5 Q. Mr. Warren, let's look at paragraph 9 of
6 your declaration, which has been marked as
7 Exhibit 1.

8 A. Okay.

9 Q. So you start by saying, "CSXT uses drayage
10 to access NIT. Drayage is a significantly less
11 effective solution than loading railcars on-dock."

12 Are you talking about drayage versus
13 on-dock generally?

14 A. I think that the principal applies at NIT.

15 Q. What's your basis for saying the principal
16 applies at NIT?

17 A. Two things. One, you know, as I mentioned
18 earlier, I interviewed local personnel to find out
19 about those gate hours. And in discussing this with
20 internal and industry colleagues, what's reflected
21 in this paragraph is really the reason that
22 steamship lines don't want to buy a drayage product
23 from CSX at that location, because it's not
24 resilient and scalable.

25 Q. So when you say you interviewed local

1 personnel about gate hours, you testified about that
2 this morning.

3 A. Yes.

4 Q. Did you talk to more than the local
5 terminal manager?

6 A. Well, I think as the correspondence
7 illustrated, I have relationships with other people
8 that work at the port. We were familiar with the
9 operations there and with internal CSX contacts.

10 Q. Who did you talk to besides the terminal
11 manager who gave you the gate hours?

12 A. I don't remember exactly all the names,
13 but I had regular conversations with people at VIT
14 that would have informed that perspective.

15 Q. You don't recall who you talked to at VIT?

16 A. The paragraph reflects an understanding
17 from several conversations. It would be difficult
18 to attribute each part of it.

19 Q. So when did you have these several
20 conversations with VIT personnel?

21 A. I honestly don't remember the timing.

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Q. Let's move on to paragraph 10 of your declaration. The second sentence of paragraph 10 says, "I routinely hear concerns from ocean carriers."

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1 Let's unpack that. What does "routinely"
2 mean?

3 A. Well, as you're aware, the roles I've had
4 at CSX over the last few years involve interacting
5 with CSX staff, port staff, folks around the
6 industry. And so it's just -- hearing that would
7 be, you know, from an account representative at CSX
8 or a port partner. There's lot of different ways
9 that you could find that information.

10 Q. You don't have specific examples that come
11 to mind that you put in your declaration, right?

12 A. Specific examples of what, please?

13 Q. Of the routine -- your routinely hearing
14 concerns.

15 A. What would qualify as an example?

16 Q. Well, you say you routinely hear concerns
17 from ocean carriers.

18 Which ocean carriers have expressed their
19 concerns to you?

20 A. Some of that is not direct, so it would
21 come from people on the CSX account team. But I
22 don't have any steamship company names that I can
23 offer you to support that statement.

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7 In paragraph 11, Ms. Reinhart asked you
8 some questions about the last sentence of paragraph
9 11 and I believe that you testified that you
10 actually spoke to Mr. Capozzi --

11 A. That is correct.

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Q. So what other information did you have
that forms the basis for the final clause of that
sentence?

A. I'd say it's the knowledge that I
accumulated from multiple sources about what the

1 issues operating a drayage program at NIT are.

2 Q. And do you recall who those individuals
3 were?

4 A. I think I've given everybody all the names
5 that I can think of. I don't have any new ones to
6 add.

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